

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA *ex rel.*
CHRISTINA ELLIS,

Case No.: 2:16-cv-01447-APG-NJK

Plaintiff(s),

Order

V.

JING SHU ZHENG, et al.,

Defendant(s).

16 Pending before the Court is an order to show cause why counterclaimant Zheng should not
17 be sanctioned (up to and including dismissal of her counterclaim) for failing to appear at the
18 settlement conference and for failing to otherwise comply with the order setting the settlement
19 conference. Docket No. 48. Ms. Zheng responded with an unelaborated assertion that she did not
20 receive the Court’s order that was mailed to her. Docket No. 50; *but see* Docket No. 43 (notice of
21 electronic filing showing mailing of order to Ms. Zheng at her address listed on the docket). There
22 is a presumption of receipt of mailed orders, which can only be overcome through the presentation
23 of clear and convincing evidence to the contrary. *See, e.g., Fernandez v. Harrington*, 2015 WL
24 11216743, at *2-3 (C.D. Cal. Feb. 24, 2015) (providing extensive citations for this “venerable
25 principle of common law” dating back to the nineteenth century). It is well-settled that a bare
26 denial of receipt fails. *See, e.g., id.* at *3 (collecting cases).

27 Given that counterclaimant is *pro se*, the Court will afford her one further opportunity to
28 establish non-receipt of the subject order. To that end, the Court **SETS** an evidentiary hearing for

1 2:00 p.m. on September 18, 2018, in Courtroom 3B. **Jing Shu Zheng is ORDERED to appear**
2 **in person at that hearing and shall be prepared to testify regarding her assertions of non-**
3 **receipt. FAILURE TO APPEAR AT THIS HEARING WILL RESULT IN SANCTIONS**
4 **BEING IMPOSED.** Given the approaching trial date, requests to continue this hearing will not
5 be entertained. To the extent they wish to do so, Counter Defendants may themselves file a
6 response to this order and to the order to show cause more generally by September 14, 2018.

7 IT IS SO ORDERED.

8 Dated: September 11, 2018

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10 Nancy J. Koppe
United States Magistrate Judge

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